

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CYNTHIA L. OFFIE,)	
)	
Plaintiff,)	Civil Action No. 2:11-cv-47
)	
v.)	Chief Judge Gary L. Lancaster
)	Chief Magistrate Judge Lisa Pupo
WINNER HOTEL CORP., <i>et al.</i> ,)	Lenihan
)	
Defendants.)	ECF No. 30
)	
)	

MEMORANDUM ORDER

The Complaint in the above captioned case was received by the Clerk of Court on January 13, 2011, and was referred to Chief United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 46), filed on January 10, 2012, recommended that the Motion for Partial Dismissal of Plaintiff's Amended Complaint (ECF No. 30) filed by Defendants Winner Hotel Corporation, d/b/a Radisson Hotel, Sharon, Janus Hotels & Resorts, f/k/a Janus American Group, and HELP of Lancaster, LLC, a/k/a Hospitality Employee Leasing, be granted in part and denied in part. In particular, as to Count I, the report and recommendation recommended that Defendants' motion to dismiss Plaintiff's claim of sexual harassment/hostile work environment under Title VII be granted with prejudice, and that Plaintiff's claim of disparate treatment based on sex under Title VII be denied with

regard to failure to promote and granted with prejudice in all other respects. As to Count II, the report and recommendation recommended that Defendants' motion to dismiss Plaintiff's claim of sexual harassment/hostile work environment under the PHRA be granted with prejudice, and that Plaintiff's claim of disparate treatment based on sex under the PHRA be denied with regard to failure to promote and granted with prejudice in all other respects. As to Count III, the report and recommendation recommended that Defendants' motion to dismiss Plaintiff's claim of age-based harassment/hostile work environment under the ADEA be granted with prejudice, and that Plaintiff's claim of disparate treatment based on age under the ADEA be denied with regard to selective enforcement of drug/alcohol testing and granted with prejudice in all other respects. As to Count IV, the report and recommendation recommended that Defendants' motion to dismiss Plaintiff's claim of age-based harassment/hostile work environment under the PHRA be granted with prejudice, and that Plaintiff's claim of disparate treatment based on age under the PHRA be denied with regard to selective enforcement of drug/alcohol testing and granted with prejudice in all other respects. The report and recommendation further recommended that Defendants' motion to dismiss Plaintiff's retaliation claims under Title VII and the PHRA in Counts VII and VIII, respectively, be granted with prejudice, and Counts VII and VIII be dismissed in their entirety. The report and recommendation further recommended that Defendants' motion to dismiss Defendants Janus Hotels, Janus American, and HELP from this lawsuit be denied. Finally, the report and recommendation recommended that Defendants' Motion to Strike Statement of Facts paragraphs 4 through 9 and 26 from the federal amended complaint

as irrelevant and prejudicial (ECF No. 30) be granted as to statement of facts paragraphs 5a, 5b, 6 and 7, and be denied as to paragraphs 4, 5c, 5d, 5e, 5f, 8, and 9, and that the reference to "hostile work environment" in statement of facts paragraph 26 be stricken.

Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. Plaintiff filed timely objections to the Report and Recommendation on February 7, 2012, and Defendants filed their timely response to Plaintiff's objections on February 28, 2012.¹

After review of the pleadings and documents in the case, together with the Report and Recommendation, objections thereto, and Defendants' response, the following Order is entered:

AND NOW, this 1st day of March, 2012,

IT IS HEREBY ORDERED that the Motion for Partial Dismissal of Plaintiff's Amended Complaint (ECF No. 30) filed by Defendants is **GRANTED IN PART AND DENIED IN PART**.

IT IS ORDERED that as to Count I, Defendants' motion is **GRANTED WITH PREJUDICE** with regard to Plaintiff's claim of sexual harassment/hostile work environment under Title VII. Said motion is **DENIED** as to Plaintiff's claim of disparate treatment based on sex under Title VII with regard to failure to promote and **GRANTED**

¹ Plaintiff requested and was granted an extension until February 7, 2012 to file her objections to the report and recommendation. Defendants also requested an extension until February 28, 2012 to file their response which was granted.

WITH PREJUDICE in all other respects.

IT IS FURTHER ORDERED that as to Count II, Defendants' motion is **GRANTED WITH PREJUDICE** with regard to Plaintiff's claim of sexual harassment/hostile work environment under the PHRA. Said motion is **DENIED** as to Plaintiff's claim of disparate treatment based on sex under the PHRA with regard to failure to promote and **GRANTED WITH PREJUDICE** in all other respects.

IT IS FURTHER ORDERED that as to Count III, Defendants' motion is **GRANTED WITH PREJUDICE** with regard to Plaintiff's claim of age-based harassment/hostile work environment under the ADEA. Said motion is **DENIED** as to Plaintiff's claim of disparate treatment based on age under the ADEA with regard to selective enforcement of drug/alcohol testing and **GRANTED WITH PREJUDICE** in all other respects.

IT IS FURTHER ORDERED that as to Count IV, Defendants' motion is **GRANTED WITH PREJUDICE** with regard to Plaintiff's claim of age-based harassment/hostile work environment under the PHRA. Said motion is **DENIED** as to Plaintiff's claim of disparate treatment based on age under the PHRA with regard to selective enforcement of drug/alcohol testing and **GRANTED WITH PREJUDICE** in all other respects.

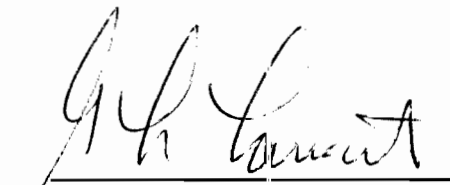
IT IS FURTHER ORDERED that Defendants' motion to dismiss Plaintiff's retaliation claims under Title VII and the PHRA in Counts VII and VIII, respectively, is **GRANTED WITH PREJUDICE**, and Counts VII and VIII are dismissed in their entirety.

IT IS FURTHER ORDERED that Defendants' motion to dismiss Defendants Janus Hotels & Resorts, f/k/a Janus American Group, and HELP of Lancaster, LLC,

a/k/a Hospitality Employee Leasing, from this lawsuit is **DENIED**.

IT IS FURTHER ORDERED that Defendants' Motion to Strike Statement of Facts paragraphs 4 through 9 and 26 from the federal amended complaint as irrelevant and prejudicial (ECF No. 30) is **GRANTED IN PART AND DENIED IN PART**. Said Motion is **GRANTED** and statement of facts paragraphs 5a, 5b, 6, 7 and the reference to "hostile work environment" in statement of facts paragraph 26 are **STRICKEN**. Defendants' Motion to Strike is **DENIED** as to paragraphs 4, 5c, 5d, 5e, 5f, 8, and 9.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 46) of Chief Magistrate Judge Lenihan, dated January 10, 2012, is adopted as the opinion of the Court.



GARY L. LANCASTER
Chief United States District Judge

cc: All Counsel of Record
Via Electronic Mail